

SUBCHAPTER E: DEDUCTIBLE
§337.40, §337.41
Effective June 1, 2005

§337.40. General Requirements.

(a) Eligible costs incurred by an applicant in performance of technical and scientific investigations, assessments, or corrective action associated with the site and related to the release of a dry cleaning solvent may be credited against the deductible required under Texas Health and Safety Code, §374.203.

(b) Eligible costs for credit against the deductible are only those costs submitted with the application for ranking package that are reasonable and appropriate costs for reasonable and appropriate actions as determined by the executive director.

(c) If the deductible is not met by eligible costs, the applicant shall submit a non-refundable payment of the difference at the time the application for ranking is submitted.

(d) In the case of multiple applications for the same dry cleaning facility, each applicant must individually meet the deductible requirements in this subchapter.

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§337.41. Evidence of Eligible Costs.

(a) Evidence of eligible costs must be submitted with the application for ranking package and must contain:

(1) legible copies of invoices, providing a description of:

- (A) any work performed;
- (B) who performed the work;
- (C) where the work was performed;
- (D) the dates that the work was performed;
- (E) the unit cost; and
- (F) the total amount paid; and

(2) proof that the amounts shown on the invoices for which the credit toward the deductible is requested have been paid in full by the applicant. The submission must include either:

(A) business receipts or invoices from the person that performed the work, indicating payments received;

(B) canceled checks;

(C) the certification of a certified public accountant that the expenses for which credit against the deductible is requested have been paid in full; or

(D) a notarized affidavit signed by the person that performed the corrective action, affirming that the amounts which the applicant represents as being paid to the person that performed the corrective action were paid in full.

(b) The executive director may require the applicant to provide additional information or return the application if the information is not sufficient to review the application. If the executive director requests additional information, the applicant shall provide such information within 30 days of receiving the request.

(c) The following types of costs are those that will not be considered eligible costs applicable to the deductible under this subchapter:

(1) replacement, repair, and maintenance of affected equipment;

(2) upgrading existing equipment;

(3) removal, transport, and disposal of equipment;

(4) loss of income or profits, including, without limitation, the loss of business income arising out of the review, processing, or payment of an application for ranking under this subchapter;

(5) decreased property values;

(6) bodily injury or property damage;

(7) attorney's fees;

(8) any administrative costs associated with the preparation, filing, and processing of an application for ranking under this subchapter;

(9) making improvements to the facility beyond those that are required for corrective action;

(10) compiling and storing records relating to costs of corrective action;

(11) corrective action taken in response to the release of a substance that is not a dry cleaning solvent;

(12) any activities, including those required by this chapter, that are not conducted in compliance with applicable state and federal environmental laws or laws relating to the transport and disposal of waste;

(13) interest on monies; and

(14) abatement or corrective action taken in response to a release of:

(A) a regulated substance that is not dry cleaning solvent; or

(B) a release of a dry cleaning solvent that has commingled with a regulated substance that is not a dry cleaning solvent unless the release of the dry cleaning solvent can be separately remediated.

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